



General Assembly

January Session, 2015

## ***Amendment***

LCO No. 9259



Offered by:  
SEN. KELLY, 21<sup>st</sup> Dist.

To: Subst. House Bill No. 6951

File No. 421

Cal. No. 640

### ***"AN ACT CONCERNING THE INSURERS REHABILITATION AND LIQUIDATION ACT."***

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 38a-1083 of the general statutes are repealed and  
4 the following is substituted in lieu thereof (*Effective from passage*):

5 (a) For purposes of sections 38a-1080 to [38a-1091] 38a-1092,  
6 inclusive, as amended by this act, and section 502 of this act "purposes  
7 of the exchange" means the purposes of and the pursuit of the goals of  
8 the exchange expressed in and pursuant to this section and the  
9 performance of the duties and responsibilities of the exchange set forth  
10 in sections 38a-1084 to 38a-1092, inclusive, which are hereby  
11 determined to be public purposes for which public funds may be  
12 expended. The powers enumerated in this section shall be interpreted  
13 broadly to effectuate the purposes of the exchange and shall not be  
14 construed as a limitation of powers.

15 (b) The goals of the exchange shall be to reduce the number of  
16 individuals without health insurance in this state and assist  
17 individuals and small employers in the procurement of health  
18 insurance by, among other services, offering easily comparable and  
19 understandable information about health insurance options.

20 (c) The exchange is authorized and empowered to:

21 (1) Have perpetual [successions] succession as a body politic and  
22 corporate and to adopt bylaws for the regulation of its affairs and the  
23 conduct of its business;

24 (2) Adopt an official seal and alter the same at pleasure;

25 (3) Maintain an office in the state at such place or places as it may  
26 designate;

27 (4) Employ such assistants, agents, managers and other employees  
28 as may be necessary or desirable;

29 (5) Acquire, lease, purchase, own, manage, hold and dispose of real  
30 and personal property, and lease, convey or deal in or enter into  
31 agreements with respect to such property on any terms necessary or  
32 incidental to the carrying out of these purposes, provided all such  
33 acquisitions of real property for the exchange's own use with amounts  
34 appropriated by this state to the exchange or with the proceeds of  
35 bonds supported by the full faith and credit of this state shall be  
36 subject to the approval of the Secretary of the Office of Policy and  
37 Management and the provisions of section 4b-23;

38 (6) Receive and accept, from any source, aid or contributions,  
39 including money, property, labor and other things of value;

40 (7) Charge assessments or user fees to health carriers that are  
41 capable of offering a qualified health plan through the exchange or  
42 otherwise generate funding necessary to support the operations of the  
43 exchange and impose interest and penalties on such health carriers for

44 delinquent payments of such assessments or fees;

45 (8) Procure insurance against loss in connection with its property  
46 and other assets in such amounts and from such insurers as it deems  
47 desirable;

48 (9) Invest any funds not needed for immediate use or disbursement  
49 in obligations issued or guaranteed by the United States of America or  
50 the state and in obligations that are legal investments for savings banks  
51 in the state;

52 (10) Issue bonds, bond anticipation notes and other obligations of  
53 the exchange for any of its corporate purposes, and to fund or refund  
54 the same and provide for the rights of the holders thereof, and to  
55 secure the same by pledge of revenues, notes and mortgages of others;

56 (11) Borrow money for the purpose of obtaining working capital;

57 (12) Account for and audit funds of the exchange and any recipients  
58 of funds from the exchange;

59 (13) Make and enter into any contract or agreement necessary or  
60 incidental to the performance of its duties and execution of its powers.  
61 The contracts entered into by the exchange shall not be subject to the  
62 approval of any other state department, office or agency, provided  
63 copies of all contracts of the exchange shall be maintained by the  
64 exchange as public records, subject to the proprietary rights of any  
65 party to the contract;

66 (14) To the extent permitted under its contract with other persons,  
67 consent to any termination, modification, forgiveness or other change  
68 of any term of any contractual right, payment, royalty, contract or  
69 agreement of any kind to which the exchange is a party;

70 (15) Award grants to trained and certified individuals and  
71 institutions that will assist individuals, families and small employers  
72 and their employees in enrolling in appropriate coverage through the

73 exchange. Applications for grants from the exchange shall be made on  
74 a form prescribed by the board;

75 (16) Limit the number of plans offered, and use selective criteria in  
76 determining which plans to offer, through the exchange, provided  
77 individuals and employers have an adequate number and selection of  
78 choices;

79 (17) Evaluate jointly with the Sustinet Health Care Cabinet the  
80 feasibility of implementing a basic health program option as set forth  
81 in Section 1331 of the Affordable Care Act;

82 (18) Establish one or more subsidiaries, in accordance with section  
83 502 of this act, to further the purposes of the exchange;

84 (19) (A) Make loans to each subsidiary established pursuant to  
85 section 502 of this act from the assets of the exchange and the proceeds  
86 of bonds, bond anticipation notes and other obligations issued by the  
87 exchange, provided the source and security for the repayment of such  
88 loans are derived from the assets, revenues and resources of the  
89 subsidiary, and (B) assign or transfer to such subsidiary any of the  
90 rights, moneys or other assets of the exchange, provided such  
91 assignment or transfer is not in violation of state or federal law;

92 ~~[(18)]~~ (20) Sue and be sued, plead and be impleaded;

93 ~~[(19)]~~ (21) Adopt regular procedures that are not in conflict with  
94 other provisions of the general statutes, for exercising the power of the  
95 exchange; and

96 ~~[(20)]~~ (22) Do all acts and things necessary and convenient to carry  
97 out the purposes of the exchange, provided such acts or things shall  
98 not conflict with the provisions of the Affordable Care Act, regulations  
99 adopted thereunder or federal guidance issued pursuant to the  
100 Affordable Care Act.

101 (d) Prior to changing the amount of an assessment or user fee

102 charged to any health carrier pursuant to subdivision (7) of subsection  
103 (c) of this section, if such change is for more than a ten per cent  
104 increase, the board shall file such proposed change with the clerks of  
105 the House of Representatives and the Senate. The General Assembly  
106 shall vote to approve or reject such proposed change within thirty days  
107 after the date of filing. If the General Assembly fails to vote to approve  
108 or reject such proposed change within the thirty-day period, the  
109 proposed change shall be deemed approved. The thirty-day period  
110 shall not begin or expire unless the General Assembly is in regular  
111 session.

112 [(d)] (e) (1) The chief executive officer of the exchange shall provide  
113 to the commissioner the name of any health carrier that fails to pay any  
114 assessment or user fee under subdivision (7) of subsection (c) of this  
115 section to the exchange. The commissioner shall see that all laws  
116 respecting the authority of the exchange pursuant to said subdivision  
117 (7) are faithfully executed. The commissioner has all the powers  
118 specifically granted under this title and all further powers that are  
119 reasonable and necessary to enable the commissioner to enforce the  
120 provisions of said subdivision (7).

121 (2) Any health carrier aggrieved by an administrative action taken  
122 by the commissioner under subdivision (1) of this subsection may  
123 appeal therefrom in accordance with the provisions of section 4-183,  
124 except venue for such appeal shall be in the judicial district of New  
125 Britain.

126 Sec. 502. (NEW) (*Effective from passage*) (a) The exchange may  
127 establish one or more subsidiaries for such purposes as prescribed by  
128 resolution of the board of directors of the exchange, which purposes  
129 shall be consistent with the purposes of the exchange. Each subsidiary  
130 shall be deemed a quasi-public agency for the purposes of chapter 12  
131 of the general statutes and shall have all the privileges, immunities, tax  
132 exemptions and other exemptions of the exchange. Any such  
133 subsidiary may be organized as a stock or nonstock corporation or a  
134 limited liability company.

135 (b) (1) Each subsidiary shall have and may exercise the powers of  
136 the exchange and such additional powers as are set forth in such  
137 resolution, except the powers of the exchange set forth in subdivisions  
138 (7), (12), (15), (16), (17) and (21) of subsection (c) of section 38a-1083 of  
139 the general statutes, as amended by this act, shall be reserved to the  
140 exchange and shall not be exercisable by any subsidiary of the  
141 exchange.

142 (2) Each subsidiary shall include in any contract with any entity a  
143 provision that the subsidiary's liability shall be limited solely to the  
144 assets, revenues and resources of such subsidiary without recourse to  
145 the general funds, revenues or resources or any other assets of the  
146 exchange.

147 (3) A subsidiary shall not offer any insurance products other than  
148 dental plans and vision plans. Prior to undertaking its initial offering  
149 of dental or vision plans through a subsidiary, the board of directors of  
150 such subsidiary shall file a proposal for approval of such subsidiary's  
151 undertaking with the clerks of the House of Representatives and the  
152 Senate. The General Assembly shall vote to approve or reject such  
153 proposal within thirty days after the date of filing. If the General  
154 Assembly fails to vote to approve or reject such proposal within the  
155 thirty-day period, the proposal shall be deemed approved. The thirty-  
156 day period shall not begin or expire unless the General Assembly is in  
157 regular session. Once the undertaking of the initial offering has been  
158 approved, the board shall not be required to file any additional  
159 proposals pursuant to this subdivision.

160 (c) (1) Each subsidiary shall act through a board of directors, at least  
161 one-half of which shall be members of the board of directors of the  
162 exchange or their designees or officers or employees of the exchange.  
163 The provisions of subdivision (2) of subsection (b) of section 38a-1081  
164 of the general statutes and subdivisions (7) and (9) of subsection (c) of  
165 section 38a-1081 of the general statutes shall apply to each member of  
166 the board of directors of a subsidiary who is not a member of the board  
167 of directors of the exchange, an officer of the exchange or an employee

168 of the exchange.

169 (2) The provisions of section 1-125 of the general statutes shall apply  
170 to any member of the board of directors, officer or employee of a  
171 subsidiary established under this section. Any such member, officer or  
172 employee shall not be personally liable for the debts, obligations or  
173 liabilities of any such subsidiary as provided in section 1-125 of the  
174 general statutes. Any such subsidiary shall, and the exchange may,  
175 save harmless and indemnify any such member, officer or employee as  
176 provided in section 1-125 of the general statutes.

177 (d) (1) Each subsidiary to which the exchange makes a loan  
178 pursuant to subdivision (19) of subsection (c) of section 38a-1083 of the  
179 general statutes, as amended by this act, shall repay such loan from the  
180 assets, revenues and resources of such subsidiary.

181 (2) Each subsidiary shall be subject to suit, provided its liability shall  
182 be limited solely to the assets, revenues and resources of such  
183 subsidiary and without recourse to the general funds, revenues or  
184 resources or any other assets of the exchange.

185 (3) Each subsidiary may convey or dispose of its assets and pledge  
186 its revenues to secure any borrowing, provided any such borrowing  
187 shall be a special obligation of the subsidiary and shall be payable  
188 solely from the assets, revenues and resources of the subsidiary.

189 (4) Each subsidiary or the exchange may take any action necessary  
190 to comply with the provisions of the Internal Revenue Code of 1986, or  
191 any subsequent corresponding internal revenue code of the United  
192 States, as amended from time to time, to qualify and maintain any  
193 subsidiary as a corporation exempt from taxation under said code.

194 (e) The provisions of subsection (b) of section 38a-1090 of the  
195 general statutes shall be applicable to each subsidiary established by  
196 the exchange.

197 Sec. 503. Section 38a-1080 of the general statutes is repealed and the

198 following is substituted in lieu thereof (*Effective from passage*):

199 For purposes of sections 38a-1080 to [38a-1091] 38a-1092, inclusive,  
200 and section 502 of this act:

201 (1) "Board" means the board of directors of the Connecticut Health  
202 Insurance Exchange;

203 (2) "Commissioner" means the Insurance Commissioner;

204 (3) "Exchange" means the Connecticut Health Insurance Exchange  
205 established pursuant to section 38a-1081;

206 (4) "Affordable Care Act" means the Patient Protection and  
207 Affordable Care Act, P.L. 111-148, as amended by the Health Care and  
208 Education Reconciliation Act, P.L. 111-152, as both may be amended  
209 from time to time, and regulations adopted thereunder;

210 (5) (A) "Health benefit plan" means an insurance policy or contract  
211 offered, delivered, issued for delivery, renewed, amended or  
212 continued in the state by a health carrier to provide, deliver, pay for or  
213 reimburse any of the costs of health care services.

214 (B) "Health benefit plan" does not include:

215 (i) Coverage of the type specified in subdivisions (5), (6), (7), (8), (9),  
216 (14), (15) and (16) of section 38a-469 or any combination thereof;

217 (ii) Coverage issued as a supplement to liability insurance;

218 (iii) Liability insurance, including general liability insurance and  
219 automobile liability insurance;

220 (iv) Workers' compensation insurance;

221 (v) Automobile medical payment insurance;

222 (vi) Credit insurance;



- 223 (vii) Coverage for on-site medical clinics; or
- 224 (viii) Other similar insurance coverage specified in regulations  
225 issued pursuant to the Health Insurance Portability and Accountability  
226 Act of 1996, P.L. 104-191, as amended from time to time, under which  
227 benefits for health care services are secondary or incidental to other  
228 insurance benefits.
- 229 (C) "Health benefit plan" does not include the following benefits if  
230 they are provided under a separate insurance policy, certificate or  
231 contract or are otherwise not an integral part of the plan:
- 232 (i) Limited scope dental or vision benefits;
- 233 (ii) Benefits for long-term care, nursing home care, home health  
234 care, community-based care or any combination thereof; or
- 235 (iii) Other similar, limited benefits specified in regulations issued  
236 pursuant to the Health Insurance Portability and Accountability Act of  
237 1996, P.L. 104-191, as amended from time to time;
- 238 (iv) Other supplemental coverage, similar to coverage of the type  
239 specified in subdivisions (9) and (14) of section 38a-469, provided  
240 under a group health plan.
- 241 (D) "Health benefit plan" does not include coverage of the type  
242 specified in subdivisions (3) and (13) of section 38a-469 or other fixed  
243 indemnity insurance if (i) such coverage is provided under a separate  
244 insurance policy, certificate or contract, (ii) there is no coordination  
245 between the provision of the benefits and any exclusion of benefits  
246 under any group health plan maintained by the same plan sponsor,  
247 and (iii) the benefits are paid with respect to an event without regard  
248 to whether benefits were also provided under any group health plan  
249 maintained by the same plan sponsor;
- 250 (6) "Health care services" has the same meaning as provided in  
251 section 38a-478;

252 (7) "Health carrier" means an insurance company, fraternal benefit  
 253 society, hospital service corporation, medical service corporation,  
 254 health care center or other entity subject to the insurance laws and  
 255 regulations of the state or the jurisdiction of the commissioner that  
 256 contracts or offers to contract to provide, deliver, pay for or reimburse  
 257 any of the costs of health care services;

258 (8) "Internal Revenue Code" means the Internal Revenue Code of  
 259 1986, or any subsequent corresponding internal revenue code of the  
 260 United States, as amended from time to time;

261 (9) "Person" has the same meaning as provided in section 38a-1;

262 (10) "Qualified dental plan" means a limited scope dental plan that  
 263 has been certified in accordance with subsection (e) of section 38a-1086;

264 (11) "Qualified employer" has the same meaning as provided in  
 265 Section 1312 of the Affordable Care Act;

266 (12) "Qualified health plan" means a health benefit plan that has in  
 267 effect a certification that the plan meets the criteria for certification  
 268 described in Section 1311(c) of the Affordable Care Act and section  
 269 38a-1086;

270 (13) "Qualified individual" has the same meaning as provided in  
 271 Section 1312 of the Affordable Care Act;

272 (14) "Secretary" means the Secretary of the United States  
 273 Department of Health and Human Services;

274 (15) "Small employer" has the same meaning as provided in section  
 275 38a-564."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>from passage</i>	38a-1083
Sec. 502	<i>from passage</i>	New section

Sec. 503	<i>from passage</i>	38a-1080
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